Supreme Court, U.S.
FILED
991901 MAY 26 2000
OF THE CLERK

No. _____

In The

Supreme Court of the United States

DAVID HATCHIGIAN,

Petitioner,

v.

MARITZA H. CRUZADO,

Respondent.

On Petition For Writ of Certiorari To The Court Of Appeals Of Pennsylvania Supreme Court

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PETITION FOR WRIT CERTIORARI

David Hatchigian, Pro Se
2414 Township Line Road
Havertown, Pennsylvania
19083
Tel. (610) 446-7257
Fax. (610) 527- 7516

QUESTIONS PRESENTED FOR REVIEW

I. If a Plaintiff requests a Jury Trial and pays for a Jury Trial, is the plaintiff guaranteed to Jury Trial as per Pennsylvania Law and the United States Constitution?

II. After Plaintiff takes appeal to Superior Court, does the Lower Court (Court of Common Pleas) have the jurisdiction to impose any Orders on the Plaintiff?

PARTIES

All parties appear in the caption. Petitioner will referred to by his name, "Hatchigian"; Respondent will be referred to as "Cruzado".

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II. After Hatchigian takes an Appeal to Superior Court, the Lower Court (Court of Common Pleas) does not have the jurisdiction to impose any Orders on Hatchigian. 4

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28 U.S.C. 1257 1

CITATION TO OPINION

A reproduction of Pennsylvania Superior Court opinion denying Hatchigian Trial by Jury. The opinion is reproduced in the Appendix.

Pennsylvania Supreme Court has also denied Hatchigian Trial by Jury by affirming the Pennsylvania Superior Court Order. The opinion is reproduced in the Appendix.

JURISDICTION

The United States Supreme Court has jurisdiction of the case pursuant to 28 U.S.C. 1257.

Pennsylvania Superior Court Order, September 21, 1999.

Pennsylvania Supreme Court Ordered, February 29, 2000.

This Petition of certiorari is timely filed on or before May 30, 2000.

CONSTITUTIONAL PROVISIONS

The Seventh Amendment of the Constitution of the United States: "...*where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, ...* ".

The Fourteenth Amendment of the Constitution of the United States: "... *nor shall any State deprive any person of life, liberty, or property, without due process of law; ...*".

PETITION FOR ALLOWANCE OF APPEAL

TO THE HONORABLE JUSTICES OF THE UNITED STATES SUPREME COURT:

This Petition for Allowance of Appeal is filed by Hatchigian, pro se, from an Order of the Pennsylvania Supreme Court, February 29, 2000 (App. 11, 12), which Quashed the Appellant's Appeal to Set Aside an Order of the Court of Common Pleas of Philadelphia County.

1. Hatchigian the Appellant is proceeding Pro Se and his address is 2414 Township Line Road, Havertown, Pennsylvania 19083.

2. Cruzado's current address is unknown.

3. Hatchigian owned a duplex apartment building in Philadelphia and leased an apartment in the building to Cruzado.

4. Cruzado during the term of her lease stopped the payment of rent. Hatchigian filed for an eviction.

5. Cruzado was thereafter represented by David Denenberg, Esquire, who claimed Hatchigian was acting in "retaliation" against "Cruzado". He cited a section of the law which prohibited any "retaliation" action being filed against a tenant solely due to his or her membership in a "tenants' association".

6. Hatchigian was representing himself pro se and he asked for a Trial by Jury. Hatchigian paid one hundred and fifty ($150.00) dollars for the Trial by Jury. He appeared before the Honorable Alan K. Silberstein in case Number CCP 96-03-682 on May 30, 1996. Judge Silberstein refused to permit Hatchigian to have the case heard before a Jury even though Hatchigian had paid the fee for a Jury Trial. Judge Silberstein directed Hatchigain to "settle" the case by paying three hundred ($300.00) dollars in attorney's fees to David H. Denenberg, Esquire, even though Hatchigian had won the case against Cruzado and regained possession from Cruzado.

7. On May 30, 1996, Judge Silberstein met with David H. Denenberg by privately in Chambers and then had Hatchigian come into Chambers and directed Hatchigian to "settle" the case. Judge Silberstein then directed Hatchigian to stand in front of him in Court and ordered Hatchigian to settle the case by paying three hundred ($300.00) dollars to David H. Denenberg, Esquire. He asked Hatchigian if he "understood" and Hatchigian responded he understood. Hatchigian never said he voluntarily would settle the case as ordered.

8. Judge Silberstin told Hatchigian that if he persisted in his demand for a Jury Trial, Rule 212 required Hatchigian pay twenty five hundred ($2500.00) dollars per day if the Jury awarded more than ten ($10.00) dollars in addition to David H. Denenberg's demand.

9. On June 24, 1996, Hatchigian wrote to Judge Silberstein (App. 13) telling him he never agreed to "settle" the case and once again requested Jury Trial. Judge Silberstein denied that request.

10. On June 25, 1996, Hatchigian filed an Appeal with the Superior Court of Pennsylvania from Judge Silberstein's Order in the case dated May 30, 1996. Hatchigian also filed a Motion requesting Judge Silberstein recuse himself from the Case based on prejudice and to appoint another Judge to hear the Case. Judge Silberstein refused to recuse himself from the Case.

11. On November 7, 1996, Hatchigian appeared before Judge Silberstein, in his Courtroom, number 1103. Judge Silberstein ordered the Sheriff, who was armed and had handcuffs in hand, to stand behind Hatchigian, while he Ordered/coerced Hatchigian to pay an additional one hundred ($100.00) dollars to David H. Denenberg, Esquire. Hatchigian attempted to explain that Judge Silberstein could not enter an Order because the case had been appealed to Pennsylvania Superior Court. Judge Silberstein ignored the request. Within the motion to set aside an Order of the Court, Hatchigian referred to Rule 1701, Pennsylvania Rules of Appellate Procedure as found in subparagraph (a) which states:

> "General Rule. Except as otherwise prescribed by these rules, after an appeal is taken or review of a quasi judicial Order is sought, the trial court or other governmental unit may no longer proceed further in the matter".

After an Appeal is taken, the Lower court retains jurisdiction only over previous Orders to maintain a Status Quo. Otherwise the Court of Common Pleas of Philadelphia has lost jurisdiction once an Appeal has been filed and the Order of November 7, 1996 is therefore- invalid, having been entered by the Court of Common Pleas of Philadelphia after an Appeal has been filed. *Rosenberg v. Holy Redeemer Hospital*, 352 Pa. Super 399, 506 A 2d 1012 (1986) *Fiore v. Oakwood Plaza Shopping Center*, 401 Pa. Super 446, 5854 A2d. 1012 (1991), *In Interest of Smith*, 396 Pa. Super 624, 599 A2d. 889 (1990).

Judge Silberstein never prepared nor filed an Opinion giving reason for his unusual actions.

12. Hatchigian filed a Civil Docketing Statement with the Superior Court of Pennsylvania, but was not told to file a Brief nor given an opportunity to argue the Case. On February 4, 1997, the Superior Court of Pennsylvania entered an Order (App. 9, 10) denying the "appellant's motion to set aside the trial court order of November 7, 1996, Per Curiam."

13. Opposing counsel did not file a brief in opposition to Hatchigian's brief and he was not permitted to argue before the Superior Court of Pennsylvania. Nonetheless, the Superior Court of Pennsylvania has dismissed the Appeal on a procedural grounds which is without basis. Hatchigian never agreed to "settle" the case but only acknowledged he understood the Court was insisting he do so. It was clear that the Judge was intimidating Hatchigian simply because he did not want to give the time to provide Hatchigian his "day in Court". All this is in violation of the Rules of Civil Procedure and Hatchigian has been denied his Constitutional Right to Due Process of Law.

14. Hatchigian respectfully petitions the United States Supreme Court to permit an Allowance of Appeal since he has never been given an opportunity to argue this case before the Court of Common Pleas of Philadelphia. The Court of Common Pleas of Philadelphia has ignored Hatchigian's request for a Trial by Jury and entered an order requiring he pay the total sum of four hundred ($400.00) dollars to David H. Denenberg, Esquire, for sanctions.

15. Once the February 4, 1997 Order (App. 9, 10) from the Superior Court of Pennsylvania was received by David H. Denenberg, Esquire, and the Honorable Alan K. Silberstein, Judge Silberstein entered an order (App. 7, 8) directing Hatchigian to appear before him on March 20, 1997 at 2:00 PM in Courtroom 1103, in the Criminal Justice Center, 1301 Filbert

Street, Philadelphia, PA. The letter of communication informing Hatchigian of the Hearing is signed by Marisa S. Shuter, Esquire, Law Clerk to Judge Alan K. Silberstein and concludes by saying: "It is strongly suggested that Mr. Hatchigian bring the four hundred ($400.00) dollars with him to the hearing".

REASONS FOR GRANTING PETITION

I. Hatchigian has been denied his Constitutional Right for a Trial by Jury.

II. After Hatchigian takes an Appeal to the Superior Court, the Lower court (Court of Common Pleas) does not have the jurisdiction to impose any Orders on Hatchigian.

WHEREFORE, Hatchigian petitions the United States Supreme Court to enter an order directing the Court of Common Pleas of Philadelphia County to Schedule a Trial by Jury.

Respectfully submitted,

David Hatchigian

David Hatchigian,
2414 Township Line Road
Havertown, Pennsylvania
19083
Tel. (610) 446-7257
Fax. (610) 527-7516

J.A30007/99

DAVID HATCHIGIAN	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
Appellant	:	
v.	:	
MARITA CRUZADO	:	
Appellee	:	No. 2365 Philadelphia 1996

Appeal from the Order Dated May 30, 1996 in the Court of Common Pleas of Philadelphia County, Civil Division, at No. 682, March Term, 1996.

Before: ORIE MELVIN, SCHILLER, and LALLY-GREEN, JJ.

J U D G M E N T

ON CONSIDERATION WHEREOF: it is now ordered and adjudged by this Court that the appeal from the ORDER DATED *of* the Court of Common Pleas of PHILADELPHIA *County be, and is hereby QUASHED.*

BY THE COURT:

(Signature)
PROTHONOTARY

Dated: SEPTEMBER 21, 1999

J.A30007/99

DAVID HATCHIGIAN	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
Appellant	:	
v.	:	
MARITA CRUZADO	:	
Appellee	:	No. 2365 Philadelphia 1996

Appeal from the Order Dated May 30, 1996 in the Court of Common Pleas of Philadelphia County, Civil Division, at No. 682, March Term, 1996.

Before: ORIE MELVIN, SCHILLER, and LALLY-GREEN, JJ.

MEMORANDUM: (Stamp) FILED SEP 2 1 1999

Apellant David Hatchigian appeals from an order dated May 30, 1996, and docketed June 5, 1996, which settled this landlord-tenant action. We quash the appeal as moot.

Appellant commenced this action for eviction due to late payment and/or nonpayment of rent. The municipal court awarded Appellant possession but entered judgment against him on Appellee's counterclaim. Appellant appealed to common pleas court. Docket entry, 3/7/96. After an off-the-record conference on May 30, 1996, a

settlement was arranged and placed on the record which obligated Appellant to pay Appellee $300. N.T., 5/30/96, at unnumbered page 10. Appellant nevertheless filed a notice of appeal on June 25, 1996. Docket Entry, 6/25/96. On June 23, 1997, after

J.A30007/99

execution proceedings,[1] the judgment against Appellant was marked satisfied. Docket Entry, 6/23/97.

The satisfaction of a judgment "forever discharge[s] the judgment." 42 Pa.C.S.A. 8104(a); **Kalman v. Muzika**, 450 A.2s 1025 (Pa. Super. 1982). Once judgment has been satisfied, there no longer exists any obligation and all questions of liability and damages are extinguished. **Wilk v. Kochara**, 647 A.2d 595, 596 (Pa. Super. 1994); **Linde Enterprises v. Hazelton City Authority**, 602 A.2d 897, 901 (Pa. Super. 1992). Since the present case has been settled and the judgment has been satisfied, there are no issues properly before the Court. Accordingly, we quash the appeal.

Appeal quashed.

1 Appellant did not file the appropriate security required for his appeal to act as a stay or supersedeas of execution proceedings. **See** Pa.R.A.P. 1731(a).

App. 4

COMMON PLEAS COURTS OF THE
PHILADELPHIA
CIVIL LISTING SECTION
TRIAL WORK SHEET

NO. CCP 96-03-682

CAPTION - David Hatchigian v. Maritza H. Cruzadi

PROGRAM - NON JURY

CASE TYPE – MUNICIPAL COURT APPEAL (LT)

DATE OF ASSIGNMENT – 5/20/96

DATE OF DISPOSITION – 5/30/96

DISPOSITION AS TO ALL PARTIES –

SETTLED, DISCONTINUED AND ENDED.

DATE OF DISPOSITION AND TRIAL (DAYS)

/ _/	TRIED TO VERDICT
/XX/	SETTLED DURING TRIAL
/ /	SETTLEMENT PRIOR TO TRAIL
/ /	SETTLED AT SETTLEMENT CONFERENCE
/ /	NON-TRIAL OTHER THAN SETTLEMENT DISPOSITION
/ /	OTHER

(Signature)
ALAN K. SILBERSTEIN,
JUDGE

PLAINTIFF
David Hatchigian
2414 Township Line Road
Havertown, PA 19083

DEFENDANT ATTORNEY
David H. Denenberg, Esquire
1200 Walnut Street/Sixth Floor
Philadelphia, PA 19107-5499 546-1345

IN THE COURT OF COMMON PLEAS OF PHILADEPLPHIA

FIRST JUDICIAL DISTRICT

TRIAL DIVISION - CIVIL SECTION

DAVID HATCHIGIAN	:	**March, 1996**
vs.	:	
MARITZA H. CRUZADO	:	**NO: 682**

ORDER

AND NOW to wit this 7th day of November, 1996, upon consideration of the Affidavit of David H. Denenberg, Esquire, counsel for the Defendant, Maritza H. Cruzadi, and the exhibits attached thereto, and upon finding that payment was not made after a hearing on the same, it is **HEREBY ORDERED and DECREED**:

That in addition to the settlement funds of $300.00, the above-named Plaintiff, David Hatchigian, is ordered to pay forthwith an additional sum of $100.00 representing attorneys fee for a total of $400.00. Said $400.00 to be paid to counsel for the Plaintiff, David H. Denenberg, within twenty days from the date hereof, or the plaintiff will suffer appropriate sanctions.

(Signature)
ALAN K. SILBERSTEIN, J.

\appeals\hat

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
PHILADELPHIA MUNICIPAL COURT
JUDICIAL CHAMBERS
1303 CRIMINAL JUSTICE CENTER
1301 FILBERT STREET
PHILADELPHIA, PA 19107
(215) 683-7200/01

(Seal)
ALAN K. SILBERSTEIN
PRESIDENT JUDGE

February 13, 1997

David Denenberg, Esquire
Sixth Floor/1200 Walnut Street
Philadelphia, PA 19017

David Hatchigian
2414 Township
Line Road
Havertown, PA
19083

RE: **Hatchigian v. Cruzado**
CCP: 9603-682

Dear Mr. Denenberg anf Mr. Hatchigian:

As you are both aware, on November 7, 1996, Judge Silberstein entered an order instructing Mr. Hatchigian to pay a total of $400.00 within twenty (2) days or suffer appropriate sanctions. According to Mr. Denenberg, the $400.00 has not been paid. Therefore, Judge Silberstein has scheduled a hearing in this matter for **THURSDAY, MARCH 20, 1997, AT 2:00 PM IN COURTROOM 1103, CRIMINAL JUSTICE CENTER, 1301 FILBERT STREET.** It is strongly

suggested that Mr. Hatchigian bring the $400.00 with him to the hearing.

Very truly yours,

(Signature)
MARISA S. SHUTER, ESQUIRE
LAW CLERK TO:
JUDGE ALAN K. SILBERSTEIN

mss/meg

App. 9

(Seal)

The Superior Court of Pennsylvania
Office of the Prothonotary
530 WALNUT STREET
THIRD FLOOR, SUITE 316
PHILADELPHIA, PENNSYLVANIA 19106

DAVID A. SZEWCZAK, ESQUIRE (215) 560-5800
PROTHONOTARY

BIATRICE CURTISS
DEPUTY PROTHONOTARY

February 4, 1997

David Hatchigian, Pro Se
2414 Township Line Road
Havertown, pa 19083

RE: David Hatchigian, Appellant v.
Marita Cruzado
No. 02365 Philadelphia, 1996

Dear Mr. Hatchigian:

This is to advise that the Attached order has been entered in the above-captioned matter.

Very truly yours,
(Signature)
David A. Szewczak
Prothonotary

DAS:mlk
Enclosure
cc: David H. Denenberg, Esquire

David Hachigian	:	IN THE SUPERIOR
	:	COURT OF
Apellant	:	PENNSYLVANIA
	:	
v.	:	
	:	(C.P. Phila. Cnty.
	:	No. 682 March
	:	Term, 1996)
	:	No. 2365
	:	Philadelphia, 1996
	:	Filed: February 4,
Marita Cruzado	:	1997

ORDER

The appellant's motion to set aside the trial court order of November 7, 1996 is **DENIED**.

Per Curiam

(*Seal*)

Supreme Court of Pennsylvania
Eastern District

JOHN W. PERSON, ESQ.
DEPUTY PROTHONOTARY

PATRICIA JOHNSON
CHIEF CLERK

448 CITY HALL
PHILADELPHIA,
PA 19107
http://www.courts.
state.pa.us

February 29, 2000

TO: David Hatchigian, Esquire

RE: DAVID HATCHIGIAN PETITIONER

v.

RE: MARITZA H. CRUZADI RESPONDENT

No. 0797 E.D. Allocatur Docket 1999

Dear Counsel:

This is to advise you that the attached order has been entered on the Petition for Allowance of Appeal filed in the above-captioned matter.

Very truly yours,

Office of the Prothonotary
Supreme Court of
Pennsylvania

/rdh
c: Honorable Alan Silberstein
Philadelphia; 0682 March Term 1996; Civil
David H. Denenberg, Esquire

IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

DAVID HATCHIGIAN,	:	No. 797 E.D. Alloc.
	:	Dkt. 1999
Petitioner	:	Petition for
	:	Allowance of
	:	Appeal from
	:	Superior Court
v.	:	
	:	
MARITZA H. CRUZADI,	:	
	:	
Respondent	:	
	:	

ORDER

PER CURIAM

AND NOW, this 29th day of February, 2000, the petition for allowance of appeal is denied.

(Stamp)
TRUE COPY FROM RECORD

Attest: FEB 29, 2000
[*Signature*]
Patricia Johnson, Chief Clerk
Supreme Court of Pennsylvania
Eastern Division

FAX (215) 527-7516 (215) 527-7513
ANS. MACHINE

DAVID HATCHIGIAN
2414 Township Line Road
Havertown, PA 19083

June 24, 1996

The Honorable Alan K. Silberstein
1303 Criminal Justice Center
1301 Filbert Street
Philadelphia, PA. 19107

CASE CAPTION: David Hatchigian v. Maritza Cruzado
TERM + NO.: CCP 96-03-682

Dear Judge Silberstein:

I have enclosed a letter dated June 10, 1996 from David Denenberg. I do not agree to the settlement of the case as stated in this letter.

I stood before you on May 30, 1996, concerning this case and have the following comments:

1. I requested a jury trial which I believe I am entitled to under the U.S. Constitution.
2. I recall that you ordered me to settle this case for $300.00. You asked if I understood the order.
3. I understood your decision, but I did not agree with it.

4. You indicated that if I wanted a jury trial, there would be, as per your interpretation of Rule 212, a $2500 per day cost to me for a jury trial if the jury awarded more than your judgment plus ten dollars or more.

I respectfully request a jury trial to be scheduled and if I am not granted a jury trial, I will have no other alternative than to appeal to Superior Court.

Respectfully yours,

(Signature)
David Hatchigian
DH/nd
cc.: ABRAMSON & DENEBERG